

**United States Department of Labor
Employees' Compensation Appeals Board**

<p>W.C., Appellant</p> <p>and</p> <p>U.S. POSTAL SERVICE, WEIRTON POST OFFICE, Weirton, WV, Employer</p>	<p>)))))))</p>	<p>Docket No. 25-0561 Issued: July 8, 2025</p>
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Appearances:

Alan J. Shapiro, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 19, 2025 appellant, through counsel, filed a timely appeal from a May 14, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).² Pursuant to the Federal Employees' Compensation Act³ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² The Board notes that counsel did not appeal from OWCP's merit decision dated May 9, 2025. Therefore, this decision is not presently before the Board. *See* 20 C.F.R. § 501.3.

³ 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met her burden of proof to expand the acceptance of her claim to include left knee arthritis and left knee joint osteoarthritis as causally related to the accepted May 4, 2020 employment injury.

FACTUAL HISTORY

On May 5, 2020 appellant, then a 41-year-old postal collection and delivery employee, filed a traumatic injury claim (Form CA-1) alleging that on May 4, 2020 she injured her left knee when she climbed into a mail truck while in the performance of duty. OWCP accepted the claim for left knee strain. It paid appellant wage-loss compensation on the supplemental rolls from June 19 through July 11, 2020. Appellant accepted limited-duty job offers and returned to work performing modified duties.

Appellant's left knee x-ray performed on May 4, 2020 revealed findings of no acute fracture or dislocation, no significant degenerative changes, and no joint effusion. Her left knee magnetic resonance imaging (MRI) scan dated June 18, 2020 noted normal left knee findings, with several small patellar degenerative subchondral cysts.

In a report dated December 3, 2021 and signed on December 9, 2021, Dr. Sean T. McGrath, a Board-certified physiatrist, related appellant's examination findings and diagnosed left knee sprain. On physical examination, he noted intact range of motion, normal gait, patellar tenderness, grinding patella tenderness, negative Lachman's, minimal effusion, and no severe medial or lateral joint tenderness. In an addendum, Dr. McGrath reviewed an updated x-ray which demonstrated upper surface patella small focal subchondral cystic changes, and no significant effusion.

On December 13, 2021, Dr. McGrath requested expansion of the acceptance of appellant's claim to include left knee arthritis and left knee joint osteoarthritis.

On July 11, 2022, OWCP received an undated report, wherein Dr. McGrath opined that appellant's work injury accelerated the development of left knee osteoarthritis as noted by the x-rays taken on May 4, 2020 and December 3, 2021. Dr. McGrath explained that the May 4, 2020 left knee x-ray did not reveal any significant findings, while the December 3, 2021 x-ray noted a small focal subchondral cyst of the upper surface patella which was consistent with patellar osteoarthritis. He further explained that this finding meant that appellant's left knee osteoarthritis had accelerated more than what would be expected in a 43-year-old female over one and one-half years' time.

On August 15, 2022, OWCP referred appellant, along with a statement of accepted facts (SOAF) and a series of questions, for a second opinion examination with Dr. Michael J. Jurenovich, an osteopathic Board-certified orthopedic surgeon.

In a report dated September 14, 2022, Dr. Jurenovich diagnosed resolved left knee sprain based upon appellant's history of injury and physical examination. He indicated that no new diagnostic testing was performed. On physical examination, Dr. Jurenovich reported an essentially unremarkable left knee examination with good range of motion, no effusion, and negative Lachman test. He opined that the accepted left knee sprain had resolved and appellant was capable

of performing her date-of-injury job. Dr. Jurenovich found no need for any further treatment as the accepted left knee sprain had resolved. He disagreed with Dr. McGrath's recommendation to expand acceptance of the case to include left knee arthritis and left knee joint osteoarthritis. Dr. Jurenovich explained there were no objective findings supportive of those conditions and appellant's left knee examination was unremarkable.

By decision dated October 11, 2022, OWCP denied expansion of the acceptance of appellant's claim to include the conditions of left knee arthritis and left knee joint osteoarthritis.

On October 20, 2022, appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated January 30, 2023 OWCP's hearing representative set aside the October 11, 2022 decision, finding that it was unclear whether Dr. Jurenovich reviewed appellant's left knee x-rays, cited by Dr. McGrath, or appellant's June 18, 2020 MRI scan. The hearing representative instructed OWCP to request that Dr. Jurenovich review the SOAF regarding the mechanism of injury, review the diagnostic studies of record, and address any points of disagreement with Dr. McGrath's report. He was then to address whether appellant's left knee arthritis/osteoarthritis was caused, aggravated, accelerated, or precipitated by the accepted employment injury.

Dr. Jurenovich, in a February 14, 2023 addendum, related that he had reviewed an updated SOAF, appellant's left knee x-rays dated May 4, 2020 and December 3, 2021, as well as her June 18, 2020 left knee MRI scan. He explained that there were no changes in the later x-ray taken 16 months after the first one, with no mention of joint space narrowing. Appellant's x-ray and MRI scan findings were what would be expected in a person of appellant's age and weight. Dr. Jurenovich opined that appellant did not exhibit signs of either left knee osteoarthritis or arthritis. In support of this conclusion, he explained that appellant's left knee examination was unremarkable and there were no objective findings supporting those conditions. Specifically, appellant's left knee range of motion was normal, she had no effusion, no atrophy, and had not undergone surgery which would predispose her to develop arthritis. Dr. Jurenovich concluded that appellant's claim should not be expanded to include arthritis or acceleration of left knee osteoarthritis.

By decision dated February 24, 2023, OWCP denied expansion of the acceptance of appellant's claim to include left knee arthritis and left knee joint osteoarthritis.

On March 1, 2023, appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated July 3, 2023 OWCP's hearing representative set aside the February 24, 2023 decision and remanded the case for OWCP to provide a decision that included findings of fact and a clear explanation of its conclusions. The

hearing representative related that OWCP had not explained why it found that the second opinion report was entitled to the weight of the medical evidence.⁴

By decision dated October 19, 2023, OWCP denied expansion of the acceptance of the claim to include left knee arthritis and left knee joint osteoarthritis as causally related to the accepted employment injury. It again found that Dr. Jurenovich's opinion represented the weight of the medical evidence.

On October 27, 2023, appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated November 21, 2023, OWCP's hearing representative set aside the October 19, 2023 decision and remanded the case for OWCP to provide a decision explaining why Dr. Jurenovich's opinion represented the weight of the medical opinion evidence. The hearing representative noted that OWCP had improperly found that there was no substantive medical evidence to the contrary.

On November 24, 2023, OWCP resent a July 6, 2023 letter to Dr. McGrath. It requested that he review Dr. Jurenovich's report and explain any disagreement. Dr. McGrath was also asked to explain why he diagnosed arthritis of the left knee and osteoarthritis of the left knee joint, based on appellant's diagnostic studies, which only reflected findings of a small focal subchondral cyst upper undersurface only. No response was received.

By decision dated May 16, 2024, OWCP denied expansion of appellant's claim to include the conditions of left knee arthritis and left knee joint osteoarthritis. It found Dr. Jurenovich's opinion represented the weight of the medical evidence based on his reasoned medical opinion.

On May 23, 2024, appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated August 22, 2024, OWCP's hearing representative set aside the May 16, 2024 decision and remanded the case for OWCP to obtain a supplemental report from Dr. Jurenovich regarding whether the December 3, 2021 x-ray finding of a focal subchondral cyst on the undersurface of the left knee patella represented an acceleration of osteoarthritis, as found by Dr. McGrath.

In an addendum report dated September 4, 2024, Dr. Jurenovich opined that the December 3, 2021 x-ray finding of a focal subchondral bone cyst on the patella undersurface was a truly benign finding and totally unrelated to appellant's May 4, 2020 work injury. He explained that this type of cyst is not uncommon in her age group as well as her obesity status. Thus, Dr. Jurenovich concluded that expansion of the acceptance of the claim to include left knee osteoarthritis was not warranted.

⁴ On July 6, 2023, OWCP administratively combined OWCP File No. xxxxxx088 with the current OWCP File No. xxxxxx374, with the latter serving as the master file. Under OWCP File No. xxxxxx088, OWCP accepted an occupational disease claim for right knee medial meniscus tear, right knee/lower extremity deep vein thrombosis, and aggravation of right knee primary osteoarthritis.

By decision dated September 12, 2024, OWCP denied expansion of the acceptance of appellant's claim to include the conditions of left knee arthritis and left knee joint osteoarthritis.

On September 18, 2024 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated October 25, 2024, OWCP's hearing representative set aside the September 4, 2024 decision, and remanded the case for OWCP to independently analyze each physician's reports and provide reasons for assigning weight to one, over the other.

By decision dated November 7, 2024, OWCP denied expansion of the acceptance of appellant's claim to include the conditions of left knee arthritis and left knee joint osteoarthritis. It found Dr. Jurenovich's opinion was entitled to the weight of the medical opinion evidence as his opinion was based on a complete and accurate history of injury, as well as a review of appellant's medical history and medical treatment. He provided a clear explanation of his opinion, supported by medical rationale. OWCP also noted that Dr. McGrath had not responded to requests for further clarification of his report regarding his opinion that the accepted employment injury accelerated appellant's left knee arthritis and left knee joint osteoarthritis.

On November 14, 2024, appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review, which was held on February 25, 2025.

By decision dated May 9, 2025, OWCP's hearing representative affirmed the November 7, 2024 decision denying expansion of her claim.

By decision dated May 14, 2025, OWCP denied expansion of appellant's claim to include the conditions of left knee arthritis and left knee joint osteoarthritis.

LEGAL PRECEDENT

When an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.⁵ When an injury arises in the course of employment, every natural consequence that flows from that injury likewise arises out of the employment, unless it is the result of an independent intervening cause attributable to the claimant's own intentional misconduct.⁶ Thus, a subsequent injury, be it an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.⁷

⁵ *M.M.*, Docket No. 19-0951 (issued October 24, 2019); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

⁶ See *J.M.*, Docket No. 19-1926 (issued March 19, 2021); *I.S.*, Docket No. 19-1461 (issued April 30, 2020); see also *Charles W. Downey*, 54 ECAB 421 (2003).

⁷ *J.M.*, *id.*; *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139, 141 n.7 (2001).

To establish causal relationship between the condition claimed and the employment injury, an employee must submit rationalized medical evidence.⁸ The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹ The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to expand acceptance of her claim to include left knee arthritis and left knee joint osteoarthritis as causally related to the accepted May 4, 2020 employment injury.

On December 13, 2021, Dr. McGrath, appellant's treating physician, requested expansion of the acceptance of her claim to include left knee arthritis and left knee joint osteoarthritis. In an updated report, he concluded that the work injury accelerated the development of left knee osteoarthritis as noted by the x-rays taken on May 4, 2020 and December 13, 2021. In support of his opinion, Dr. McGrath explained that the development of upper surface patella small focal subchondral cystic changes was consistent with patellar osteoarthritis. Additionally, the left knee osteoarthritis had accelerated more than what would be expected in a 43-year-old female over one and one-half years' time. Dr. McGrath, however, did not provide medical rationale explaining physiologically, how appellant's additional diagnosed conditions were causally related to the accepted May 4, 2020 employment injury.¹¹ The Board also notes that Dr. McGrath did not respond to OWCP's November 24, 2023 request for clarification of his opinion. As Dr. McGrath failed to provide rationale in support of causal relationship between the additional diagnosed conditions and the accepted May 4, 2020 employment injury, his reports are of limited probative value and are insufficient to establish expansion of the acceptance of the claim.¹²

In second opinion reports dated September 14, 2022, February 14, 2023, and September 14, 2014, Dr. Jurenovich reviewed appellant's history of injury and medical records, including appellant's left knee x-rays and MRI scan. He opined that the medical evidence did not support expansion of appellant's claim to include left knee arthritis and left knee joint osteoarthritis, as there was no objective evidence to support these diagnoses. In his September 4, 2024 report, Dr. Jurenovich further explained that the December 3, 2021 x-ray finding of a focal subchondral bone cyst on the patella undersurface was a truly benign finding and totally unrelated

⁸ *TK.*, Docket No. 18-1239 (issued May 29, 2019); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

⁹ *D.T.*, Docket No. 20-0234 (issued January 8, 2021); *D.S.*, Docket No. 18-0353 (issued February 18, 2020); *TK.*, *id.*; *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹⁰ *D.T.*, *id.*; *P.M.*, Docket No. 18-0287 (issued October 11, 2018).

¹¹ *S.S.*, Docket No. 23-0391 (issued October 24, 2023); *see F.H.*, Docket No. 18-1238 (issued January 18, 2019); *J.R.*, Docket No. 18-0206 (issued October 15, 2018).

¹² *S.S.*, *id.*; *M.C.*, Docket No. 18-0361 (issued August 15, 2018).

to her May 4, 2020 work injury. Moreover, this type of finding was not uncommon in her age group and obesity status. Thus, Dr. Jurenovich opined that expansion of the acceptance of the claim to include left knee arthritis and left knee joint osteoarthritis was not warranted. The Board has reviewed the opinion of Dr. Jurenovich and finds that it has reliability, probative value, and convincing quality with respect to its conclusions regarding appellant's expansion request.¹³ The Board thus finds that the weight of the medical opinion evidence with respect to appellant's request for expansion of the acceptance of the claim is represented by the well-rationalized opinion of Dr. Jurenovich, the OWCP second opinion physician.

As the medical evidence of record is insufficient to establish causal relationship between the left knee arthritis and left knee joint osteoarthritis and the accepted employment injury, the Board finds that appellant has not met her burden of proof.¹⁴

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include left knee arthritis and left knee joint osteoarthritis as causally related to the accepted May 4, 2020 employment injury.

¹³ See *P.G.*, Docket No. 24-0437 (issued June 26, 2024); *S.V.*, Docket No. 23-0474 (issued August 1, 2023).

¹⁴ *J.C.*, Docket No. 23-0669 (issued November 20, 2023).

ORDER

IT IS HEREBY ORDERED THAT the May 14, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 8, 2025
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board